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U.S. DISTRICT COURT

2013 SEP 23 P 2:51

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

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JAMES ARNETT,

Plaintiff,

v.

BENJAMIN SNOW HOWARD;  
LIFELINE MEDIA LLC, a Utah  
entity; NATIONWIDE AFFORDABLE  
HOUSNG, a Texas corporation; and the  
BEN HOWARD TRUST, an Idaho  
trust,

Defendants.

**REPLY**

Presiding Judge Ted Stewart

Case 2:13-CV-00591-TS-DBP

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Plaintiff James Arnett, representing himself Pro Se, herein Replies to  
Defendants' Response in opposition [Doc. 74] to Plaintiff's Motion [Doc. 71].

Plaintiff James Arnett has completed and filed his proposed Second Amended Complaint [Doc. 71] on 11 September 2013, within the 45 days he had proposed and outlined at the 30 July 2013 Status Meeting, before this Honorable Court, with the Honorable United States District Judge Ted Stewart presiding.

Whereas, Plaintiff's Motion is a Rule 15(a) issue, Defendants now stand opposed [Doc. 74] to Plaintiff Arnett fulfilling his stated commitments [Doc. 57] to this Honorable Court, where the Minute Entry of said Status Meeting is synopsized as, "*Plaintiff states that he will be filing a motion for leave to file an amended complaint. Plaintiff is instructed to file the motion with the clerk's office and defendant is to respond to the motion as necessary.*" [Doc. 56 Docket Report], where no one voiced any confusion regarding Plaintiff's clearly stated intent.

Therefore, Defendants' opposition [Doc. 74] to this Amendment being "improper" amounts to nothing more than an obligatory response, not cognizant of the first and second pages of Plaintiff's Document 71, with no direct relevance or applicability to Rule 15(a), and remains unsupported by the Minute Entry.

### **Reactivation of Plaintiff's Claim for Copyright Infringement**

Whereas, important, new evidence [under Federal Rule of Evidence 902] has recently been made available to the public in the records of the United States Copyright Office of the Library of Congress, specifically, Defendants' alleged fraudulent filing for a U.S. Copyright (Pau003684884 / 2012-2-15) on the entirety of Plaintiff's original work [Exhibit DVD-2], conspicuously marked as Plaintiff's property – defendants cannot legitimately construe Plaintiff's Amendment [Doc. 71] to be futile, under Rule 15(a), which states, "*The court should freely give leave when justice so requires.*" Justice requires this Amendment to be freely Granted.

Whereas, Defendants' arguments against Plaintiff's "learning curve", etc. [Doc. 74] serve as the basis of their opposition to this Amendment, they have merely succeeded in proving that Defendants are NOT the legitimate copyright owners – for their lack of any "employer for hire" agreement with Plaintiff.

Wherefore, now supported by self-authenticating evidence, justice most definitely requires the reactivation of Plaintiff's original Claim for Copyright Infringement [Doc. 1] in his Second Amended Complaint [Doc. 71].

### **Reactivation of Plaintiff's Claim for Unjust Enrichment**

Whereas, Plaintiff should not now be penalized for retiring his Claim for Unjust Enrichment in his First Amended Complaint [Doc. 35], due to the lack of necessity under Arizona Law, new evidence and issues require its reactivation now.

Wherefore, it is obvious that the change of Jurisdiction and Venue from the District of Arizona into the District of Utah presents Plaintiff with foundational issues, in regard to the construction of Utah Contract Law, whereby, it is far from futile – it is reasonable, necessary and it fully justifies the reactivation of Plaintiff's original Claim for Unjust Enrichment [Doc. 1], as justice so requires now.

### **Defendants' Further Impeaching Statements**

Whereas, Defendants assert, "...*whatever his [Plaintiff's] contribution to the production in question was (Defendant Howard will tell a very different story when it become procedurally proper), Plaintiff was not the "author" under the law because his work was "work for hire" prepared by an employee within the scope of his employment.*" Referring to Magistrate Judge David Nuffer in 2009 [Doc. 74].

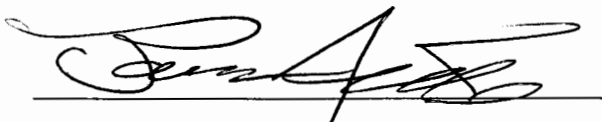
Whereas, Defendant Howard is alleging that he was an “employer for hire”, he has not maintained employer tax payments to the I.R.S. for Plaintiff nor does he have an Employer agreement with Plaintiff, necessary to qualify under Title 17 USC, Chapter 13 as an “employer for hire”. Defendant Howard has merely impeached his testimony yet again, because (notwithstanding I.R.S. records) he has already stated, “*You [Plaintiff] were never contracted as you claim.*” [Exhibit T, Doc. 35]. Defendant Howard will certainly “*tell a very different story*” when confronted with these impeaching statements he has made at the time of trial.

Wherefore, Plaintiff respectfully requests that this Honorable Court Deny any future requests from Defendants to withdraw their impeaching statements mounting in the Record for use at trial.

### **Conclusion**

Wherefore, Plaintiff James Arnett respectfully requests that this Honorable Court now freely Grant his Motion For Leave for his Second Amended Complaint [Doc. 71] because it is reasonable and justice does indeed require it, within the full scope of Federal Rule of Civil Procedure 15(a), upon which, this entire issue rests.

Respectfully submitted this 21<sup>st</sup> day of September 2013.



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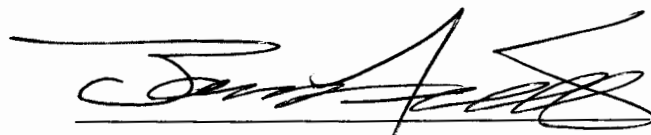
**CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of September 2013, I mailed the preceding  
REPLY to the Office of the Clerk of the United States Court for the District of Utah at:

U.S. Court for the District of Utah  
350 South Main Street  
Salt Lake City, Utah 84101

I also hereby certify that I have mailed these identical materials via United States  
Postal Service, to the following Attorneys for Defendants Howard, et al.:

TYCKSEN & SHATTUCK, LLC  
Bryan J. Stoddard  
12401 S. 450 E., Suite E-1  
Draper, UT 84020

A handwritten signature in black ink, appearing to read 'James Arnett', written over a horizontal line.

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